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C O N F I D E N T I A L SECTION 01 OF 02 AMMAN 007227

SIPDIS

DEPARTMENT FOR PM:BODINE, NEA FOR NEA/ARN

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SUBJECT: JORDAN COMMITTED TO REACHING ARTICLE 98 AGREEMENT,
BUT BALKS AT SUGGESTION OF LINK TO ESF

Classified By: Ambassador Edward W. Gnehm for Reasons 1.5 (B,D)

SUMMARY

11. (C) Jordanian Foreign Minister Marwan Muasher reiterated to the Ambassador that Jordan is committed to negotiate and sign an Article 98 agreement with the U.S. and should have a counter-draft ready soon. Muasher expressed great disappointment that the USG might have thought to link such an agreement to U.S. economic assistance, specifically the additional \$100 million in FY 2004 ESF. Jordan does not want to sign an Article 98 agreement that might impair its ability to pursue possible legal action in case of an Israeli transfer of Palestinians into Jordan -- a possibility which, however remote from reality, looms large on the conscience of Jordan's leadership and public. End Summary.

WE'RE READY WHEN YOU ARE

12. (C) During a wide-ranging discussion November 3, Jordanian FM Muasher told the Ambassador that the GOJ is ready and willing to conclude an Article 98 agreement with the U.S. Muasher said that he was confident that any obstacles could be overcome and that together the two countries can "make this happen." He further stated that the GOJ would have a new counter-proposal ready as early as November 4.

DON'T TREAD ON US!

13. (C) Muasher expressed great disappointment that the USG might have considered conditioning an FY 2004 ESF earmark of \$100 million to conclusion of an Article 98 agreement. According to Muasher, Jordanian Minister of Planning Bassem Awadallah had felt "very pressured" during his recent trip to Washington about an Article 98 agreement, as well as the release of Iraqi funds frozen in Jordanian banks. Some U.S. officials had even implied that the Administration might withhold the \$100 million if an Article 98 agreement was not reached. This attitude was inconsistent with the close U.S.-Jordanian relationship.

14. (C) The Ambassador replied that despite what Muasher and Awadallah might have heard, the U.S. Administration had attached no such conditionality. In accordance with established procedures, USAID will follow its "normal process" and sit down with the Ministry of Planning to jointly establish reasonable conditions for the ESF directly related to economic reform/progress. The Ambassador was very firm, however, that the U.S. was concerned that the GOJ was not taking seriously two issues of considerable importance to the U.S. We wanted to see real action on an Article 98 agreement (and the assets transfer) prior to King Abdullah's visit to Washington December 4-5. We saw no reason why this could not happen.

TRANSFER ISSUE "VITAL" TO JORDAN

15. (C) Saying that he had "no problem" with protecting Americans from prosecution, Muasher focused his concern on the transfer of civilians by an occupying power as prohibited by Article 8(2)(b)(viii) of the Rome Statute. Jordan had to protect its national interests. Muasher insisted that the GOJ could never sign any agreement that might prejudice its ability to take legal action in case of an Israeli transfer of Palestinians into Jordan. He said that the transfer issue was "vital" to Jordan's future security. While conceding that Israel was probably not contemplating the involuntary transfer of Palestinians at the present time, Muasher opined that such a transfer could become a serious option for Israel in the future.

16. (C) The Ambassador noted Muasher's concern, but said that this could undoubtedly be addressed and resolved in

negotiations. The Ambassador pointed out that the U.S. had reached Article 98 agreements with over 70 different countries, with agreements tailored to account for a country's unique circumstances.

COMMENT

17. (C) Senior GOJ officials have clearly heard and understood our message on Article 98. If Washington maintains a full court press on Prince Zaid at Jordan's UN mission on this issue, post will do the same on this end to reach an agreed text. Muasher's concerns about the agreement's impact on Jordan's ability to act against a potential transfer of Palestinians may strike some as hypothetical at best, or disingenuous at worst. However, fear of a large scale transfer runs rampant throughout Jordan, right up to senior leadership levels, and cannot easily be dispelled, regardless of logic. We are sure a way can be found to resolve specific concerns about the text of the agreement.

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GNEHM